



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE**

MAR 12 2014

Ralph M. Packer, President
Tisbury Towing and Transportation Co., Inc.
188 Beach Road
Vineyard Haven, MA 02568

Re: Clean Air Act Notice of Violation

Dear Mr. Packer:

Thank you for your letter of February 5, 2014, in response to the U.S. Environmental Protection Agency ("EPA") Notice of Violation ("NOV") dated January 30, 2014. In your letter you indicate that the barge *Rando 200* and the pier in New Bedford described in the NOV are owned and operated by Tisbury Towing and Transportation Co., Inc. ("Tisbury Towing"), rather than by R.M. Packer Co., Inc. Accordingly, in order to properly notify the corporate entity Tisbury Towing of EPA's findings concerning barge loading of gasoline in New Bedford, the EPA is issuing Tisbury Towing the enclosed NOV under the Clean Air Act.

The NOV addresses EPA's findings of violation at the pier located on Herman Melville Boulevard in New Bedford, Massachusetts. Specifically, Tisbury Towing has violated the requirements of the Massachusetts State Implementation Plan regarding barge loading, found at 310 CMR § 7.24.

EPA acknowledges that your letter of February 5, 2014 documents repairs made to a valve on the *Rando 200*. However such repairs do not establish that the vessel is vapor tight, or that the barge loading operations conducted by Tisbury Towing are otherwise in compliance with the requirements cited in the enclosed NOV.

You may confer with EPA about the enclosed NOV and its findings. To schedule a conference, please contact Elizabeth Kudarauskas of my staff at (617) 918-1564 or have your legal counsel contact Thomas Olivier of my staff at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.

Sincerely,

A handwritten signature in cursive script that reads "Susan Studlien".

Susan Studlien, Director
Office of Environmental Stewardship

Enclosure

cc: Gregg Hunt, MassDEP, SERO

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF)

Tisbury Towing and Transportation Co.)
188 Beach Road)
Vineyard Haven, MA 02568)

**CLEAN AIR ACT
NOTICE OF VIOLATION**

Proceeding under Section)
113 of the Clean Air Act)

STATUTORY AUTHORITY

1. The United States Environmental Protection Agency Region 1 (“EPA”) issues this Notice of Violation (“NOV”) under the authority of Section 113 of the Clean Air Act (“CAA”), 42 U.S.C. § 7413, to Tisbury Towing and Transportation Co., (“Tisbury Towing”).
2. This NOV contains EPA’s findings that Tisbury Towing has violated CAA requirements by loading gasoline into a barge in violation of requirements of the Massachusetts State Implementation Plan (“SIP”), 310 CMR 7.24 and 7.28.

BACKGROUND

3. Tisbury Towing owns and operates the barge *Rando 200* and a pier at 352 Herman Melville Boulevard in New Bedford, Massachusetts.
4. On November 8, 2011 EPA inspectors witnessed tank trucks loading gasoline into the *Rando 200* at the New Bedford pier. During the loading event EPA inspectors used a forward looking infra-red (“FLIR”) camera and a flame ionization detector (“FID”) to monitor emissions of volatile organic compounds (“VOCs”).

5. During the November 8, 2011 loading event, FLIR videos and FID measurements indicated that the *Rando 200* was releasing VOCs.

VIOLATIONS OF REQUIREMENTS FOR BARGE LOADING

Failure to Meet Vapor Tight Requirements

6. Any person who owns, operates, leases, or controls a vapor-laden delivery vessel is subject to 310 CMR §7.24(3)(e). This regulation requires that a vapor-laden delivery vessel be maintained and operated in a vapor tight manner at all times.
7. Any person who owns, leases, operates, or controls a marine terminal or marine tank vessel which takes part in a loading event which transfers an organic liquid, or in which any liquid is transferred into a marine vessel cargo tank which previously held an organic liquid, is subject to 310 CMR §7.24(8) of the CMR.
8. The provisions of 310 CMR § 7.24(8) include emission limits and equipment standards for the control of VOC emissions during a loading event as well as permit and recordkeeping requirements. Section 7.24(8)(e) prohibits a loading event unless the marine tank vessels is vapor tight or is loaded at less than atmospheric pressure.
9. The *Rando 200* is a vapor-laden delivery vessel and a marine tank vessel. During loading operations on November 8, 2011, the *Rando 200* released VOCs to the atmosphere.
10. VOCs released during gasoline loading are “vapors” as defined at 310 CMR §7.00.
11. Gasoline is an “organic liquid” as defined at 310 CMR §7.00.
12. On November 8, Tisbury Towing failed to operate the *Rando 200* in a vapor-tight manner, in violation of 310 CMR 7.24(3)(e) and 7.24(8)(e).

Failure to Re-Fill at a Bulk Gasoline Terminal or Plant

13. According to 310 CMR § 7.24(3)(e), any person who owns, operates, leases, or controls a vapor laden delivery vessel can only re-fill the vessel at bulk gasoline terminals and plants which are in compliance with 310 CMR § 7.24(2).
14. Tisbury Towing's pier in New Bedford is not a bulk gasoline terminal or bulk gasoline plant.
15. Tisbury Towing re-filled the *Rando 200* at the New Bedford pier, in violation of 310 CMR § 7.24(3)(e).

Failure to Submit Emission Control Plan and Keep Records of Gasoline Barge Loading

16. According to 310 CMR § 7.24(8)(f), any person subject to 310 CMR 7.24(8) must submit an emission control plan for approval by MassDEP.
17. Tisbury Towing has not submitted an emission control plan for approval by MassDEP, in violation of 310 CMR 7.24(8)(f).
18. According to 310 CMR § 7.24(8)(g) any person subject to 310 CMR 7.24(8) must prepare and maintain records regarding each loading event.
19. Tisbury Towing has not maintained adequate records regarding each loading event, in violation of 310 CMR 7.24(8)(g).

ENFORCEMENT

20. After the issuance of this NOV, EPA may take any or all of the following actions in accordance with the provisions of Section 113 of the Act: (a) issue an order requiring compliance with the Act; (b) issue an administrative penalty order; or (c) bring a civil action in federal district court for an injunction and/or monetary penalties up to \$37,500 per day for each violation. See Sections 113(a), (b) and (d) of the CAA, 42 U.S.C. §§ 7413(a), (b) and (d), and 40

CFR. Part 19.4 (CAA judicial and administrative penalties raised from \$25,000 to \$37,500, effective after December 6, 2013).

21. If Tisbury Towing has knowingly violated the requirements of the CAA, Tisbury Towing and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

22. Be advised that the issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address the violations alleged above.

OPPORTUNITY TO CONFER

23. If Tisbury Towing has any questions regarding this NOV, please contact Elizabeth Kudarauskas, Environmental Engineer, at (617) 918-1564, or have your legal counsel contact Thomas T. Olivier, Senior Enforcement Counsel, at (617) 918-1737. Tisbury Towing may request an opportunity to confer with EPA within 14 days of issuance of this NOV by contacting Ms. Kudarauskas or Mr. Olivier at the phone numbers listed above.

EFFECTIVE DATE

24. This NOV shall become effective immediately upon issuance by EPA.

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

03/06/14

Date



Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrf.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrf.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners

